GOVERNOR'S CONSUMER ENERGY PROTECTION TASK FORCE

Minutes of the Meeting
October 24, 2003
Room 102, State Capitol Building
Helena, Montana

ROLL CALL: The October 24, 2003, meeting of the Governor's Consumer Energy Protection Task Force was called to order by Chairman John Hines at 9:15 a.m., in Room 102, State Capitol Building, Helena, Montana. Members present were John Hines, Chairman, Commissioner Rob Rowe, Haley Beaudry, Tom Power, Chuck Swysgood, Bill Drummond, Mike Uda, and Representative Alan Olson. Mr. John Bushnell staffed the meeting, and Task Force member David Wheeliham was absent.

<u>Task Force Adoption of Recommendations From Last Meeting</u>

Mr. John Bushnell submitted formal draft recommendations for the Task Force to review (Exhibit 1). These draft recommendations were for the areas of ownership of generation, advanced approval of utility-owned generation, and Public Service Commission (PSC) authority to review transfers of utility property. Mr. Bushnell indicated he had tried to capture as much of the feedback of the Task Force as he could when drafting the recommendations, but in some cases was uncertain whether he had accomplished the intent of the recommendations.

1. Ownership of Generation. Mr. Bushnell summarized that current law provides a question of whether a restructured distribution utility can own generation to serve default supply customers. The Task Force recommend the distribution utility or restructured utility be given explicit authority to include rate-based generation as a resource to meet its default supply obligations.

Task Force Discussion:

Mr. Tom Power noted the language referred to "distribution utility" and assumed the PSC ultimately has the authority to have something included in the rate base. Mr. Power thought it should be clarified that the law allows utility-owned generation to be part of the default supply subject to existing authority of the PSC. Mr. Power noticed the language does not mention the PSC playing any particular role in whether the utility-owned resource is actually included in the rate base. Mr. Bushnell's intent was not to bypass the PSC and suggested language could be changed subject to PSC approval.

Commissioner Bob Rowe explained that as amended the law does not specifically prohibit rate-basing of resources, but it would be inconsistent with the intent of the restructuring model. Commissioner Rowe's concern was that utility-owned resources, including rate-based resources, come in through a neutral process and are evaluated consistently with other resources. This requires them to come in through the PSC's process established under its guidelines. Therefore, Commissioner Rowe felt the modification suggested by Mr. Power was appropriate. Mr. Power added the idea is to allow the utility to make a proposal, and then have the proposal move through the process already in place.

Mr. Bushnell suggested striking "to include" and inserting "request Commission approval of." The final language would read "The Task Force recommends that the distribution utility of a restructured utility be given explicit statutory authority to request Commission approval of rate-based generation as a resource to meet its default supply obligations."

Mr. Chuck Swysgood, Director of the Governor's Budget Office, inquired why the Task Force would limit the recommendation to a restructured utility when the default supply could lie with anyone willing to take on the responsibility. Mr. Swysgood recommended the language apply to a distribution utility regardless of who that may be. Mr. Swysgood commented anyone taking on the responsibility of the default supply should have this opportunity.

Mr. Bushnell's initial reaction was that the reason the language is tailored to a restructured utility is because if a company is regulated currently, they already have this option. Mr. Bushnell assumed this would bring a competitive default supplier under PSC regulation, adding the law does not, at this point, prohibit someone who owns generation from becoming a default supplier.

Mr. Power inquired if the current law specifies the distribution utility as the default supplier. Upon confirmation from the Task Force that this is the case, Mr. Power felt the law does not anticipate anybody but the distribution utility being the default supplier.

Commissioner Rowe stated the only company that is subject to the prohibition on rate-basing is Northwestern (NWE) or its successors, and there is no prohibition on anyone owning resources. Commissioner Rowe was not sure another company, if it chose to become the default supplier, would want rate-based treatment. The big question would be what does the future hold for NWE as the default supplier.

Mr. Mike Uda asked if HB 509 would have to be amended to accommodate this scenario, and Commissioner Rowe agreed it would. Chairman Hines summarized the point as being any regulated distribution utility would have the ability to rate-base generation. Chairman Hines agreed this would not foreclose any unforseen options in the future. Chairman Hines suggested the recommendation should read, "The Task Force recommends that the distribution utility be given explicit statutory authority to request Commission approval of rate-based generation as a resource to meet its default supply obligations." Mr. Uda felt there may be a definitional problem since "distribution utility" is a defined term in statute and includes default obligation. Mr. Uda thought Mr. Swysgood was concerned about one company owning the wires and poles and another company providing default supply. Mr. Swysgood agreed this was a possibility. Mr. Uda then suggested using the "distribution provider," which under HB 509 would assume the default supply obligation. Therefore, an amendment would be appropriate, and further word smithing would be necessary.

Mr. Power thought the language should be left as suggested because that is the way the law stands. The alternative being discussed by the Task Force would not be possible until the law is changed, and Mr. Power did not feel the Task Force should be concerned about different scenarios if the law were different. Representative Alan Olson added there is a real possibility statutory changes will need to be made. Mr. Power was concerned that the Task Force not be seen as recommending that someone other than the distribution utility be the default supplier since that is something the Task Force has addressed. Rep. Olson stated he was not suggesting the law be changed to allow for this scenario, but stated the distribution utility, by statute, is the default provider. While there currently is not a line of people offering to be the default supplier, that could change. Rep. Olson suggested incorporating Mr. Swysgood's recommendation would leave that option open.

Commissioner Rowe suggested the cleanest way to accomplish this would be to strike "distribution utility" and insert "default supplier." Commissioner Rowe thought there would be concern if it were thought Montana Dakota Utilities (MDU) were being brought into this scenario since MDU is a vertically integrated utility and is not subject to 390. Mr. Uda agreed it would be cleaner to simply refer to the "default supplier" since under the current statute the terms are assumed to be the same.

Mr. Bushnell recanted the revised language as, "The Task Force recommends that the default supplier be given explicit statutory authority to request Commission approval of rate-based generation as a resource to meet its default supply obligations."

There was no public comment from the audience on the proposed language.

Commissioner Rowe suggested adding a clause "based on a showing that is the best resource." Chairman Hines stated he was uncomfortable adding that since lowest cost is not the only attribute they are trying to pursue. Chairman Hines suggested adding language stating "subject to the Commission's resource acquisition guidelines." The Task Force agreed to the addition of this language.

2. Advance Approval of Utility-Owned Generation. Chairman Hines stated this issue is tied to the first issue, and the question is whether a default supplier can obtain advance approval of its own generation. Mr. Bushnell stated a law was enacted during the legislative session giving explicit authority for the default supplier to request advanced approval for long-term generation resources used to meet default supply and giving the PSC authority to approve an application. Now that the default supplier can request rate base for generation, there is a question as to whether it should be allowed to request advanced approval under SB 247. The Task Force's recommendation is, "The Task Force recommends that the Governor's Office work with the Legislative Interim Committee on Energy and Telecommunications, members of the Task Force, and others to develop a position on this issue."

Task Force Discussion:

Mr. Powers was unclear why this recommendation would be made. Chairman Hines explained the primary problem is that this brings into play some of the parties that are not represented on the Task Force, such as the ITPs. It was felt the Interim Committee was a better forum for that kind of input before a specific recommendation is made. Commissioner Rowe added Independent Power Producers, as well as Consumer Council, would have input. In Commissioner Rowe's opinion, there is nothing currently prohibiting this kind of approach. SB 247 was focused on independent producers who needed to arrange upstream financing and needed a contract in order to move forward. Commissioner Rowe's concern was that a resource coming in through this process be neutrally and vigorously evaluated just like any other resource. Chairman Hines added the Task Force cannot create law, but the Interim Committee can draft legislation. Chairman Hines added the Task Force could make a formal recommendation that this should be considered as part of the preapproval process subject to the criteria that the PSC has developed.

Mr. Powers added this is simply advice, and if the Task Force is uncertain, it would be appropriate to recommend someone look into the issue in more detail.

Chairman Hines agreed the original preapproval legislation was developed to take care of the capital market's concerns on new generation, and that the capital market continues to have the same concerns with the regulated utility.

Rep. Olson stated he could see where this would fall into place with SB 247. Rate-based generation is on the table for the Energy and Telecommunications Committee to explore, and the Interim Committee would be looking at the possibility of allowing utilities, or restructured utilities of the default supplier, to pursue the option of owning rate-based generation.

Mr. Uda observed there may have been different rationales for the preapproval bill other than utility rate-based generation and felt the Task Force should be more fully informed if it is going to make a recommendation. Mr. Uda favored withdrawing the recommendation and obtaining more information from the independent power community.

Commissioner Rowe agreed and would also like to hear from Consumer Council. Commissioner Rowe added there is nothing in current law that prohibits this kind of approach, but he would like the same kind of showing for other resources coming into the portfolio. Commissioner Rowe stated the PSC would make a decision by the end of the year on amendment of the rules.

Mr. Power cautioned there might be an issue as to whether a rate-based resource can be accommodated within the context of advance approval, and Mr. Power would be happy to wait and hear from the PSC and Consumer Council as to whether there is any difference in a rate-based resource and a long-term contract before moving forward.

Mr. Haley Beaudry asked if, to some extent, the ownership of generation question was a moot point without preapproval or, at a minimum, was a barrier to entering the market place. Commissioner Rowe explained the introduction of advance approval is a fairly significant change in the way things have been done. SB 247 identified what was appropriate to do in advance and what was appropriate after the fact. Commissioner Rowe was unsure whether that process would work in this situation, but he wanted to hear from other individuals. Mr. Uda agreed. Mr. Beaudry had a good point and stated he would also like to be more fully informed.

Chairman Hines stated he would like to have a recommendation, as opposed to a non-recommendation, for people to respond to and that this would sharpen the debate significantly.

Mr. Bob Nelson, Montana Consumer Council, stated he would like an opportunity to respond, but was not prepared to immediately formulate a response. Mr. Nelson stated Consumer Council would like to see resources treated consistently, so there is nothing tilting the selection of utility-owned resources as opposed independent resources.

Chairman Hines added that he thought there would still be prudency reviews and preapproval dealing with price quantity in terms. Therefore, there would still be an aspect of evaluation involved. Mr. Powers thought there would be even less leftover for the prudency review when it came to rate-basing a facility. With a contract, you can still ask the question of whether the contract, in the context of the portfolio, was appropriately managed and all the opportunities available were used. Mr. Powers was uncertain what prudently would cover, other than whether you've operated it prudently and maintained it prudently. Mr. Powers stated once a facility has been rate based, there is less leftover for a prudency review.

Commissioner Rowe stated this is another reason Consumer Council should get involved. Traditionally, by law, expenses and capital investments are treated differently. Here, a procedure is being used that is in place for expenses for contracts for resources that become part of the capitalized rate base. Commissioner Rowe thought this may or may not be appropriate, and did not wish to voice an opinion until he has heard from other parties.

Chairman Hines requested Mr. Bushnell draft a forcing recommendation and distribute it to Task Force members. Comments would then be solicited from Consumer Council and ITPs. Chairman Hines was concerned ITPs would be arguing from an economic self-interest perspective. Chairman Hines did not know how that would add to the discussion from a state policy standpoint. Chairman Hines identified the Task Force's charge as ensuring affordable, stable, and reliable electricity prices and, while further development of a wholesale market is a subset of the Governor's charge, it should certainly not be the Task Force's first priority.

Rep. Olson did not have a problem getting ITPs or Consumer Council involved, but wondered how the process would differ on preapproval as opposed to obtaining approval for rate-based generation after the fact. Commissioner Rowe explained that for capital investments the question is whether the resource is used and useful, and what the capital investment is that should appropriately go into rate base, as well as other decisions that are not made in determining whether a particular expense was prudently incurred. Commissioner Rowe did not necessarily know there was anything wrong with this process, but wanted to ensure absolute transparency and neutrality in how a default supplier puts together its portfolio of resources. Given the complexity of moving this process into the traditional revenue requirements case, Commissioner Rowe thought it would be very helpful to hear from Consumer Council.

Mr. Power stated that utilities, at least as far back as the mid-70s, have wanted to arrange for advanced approval of actual investments to reduce the risks. This would represent a very dramatic change in how things are done, and obtaining advanced approval and the blessings of the PSC would eliminate considerable risk to the utilities.

Mr. Beaudry commented that financing a power plant is risky today and, if there is no mechanism to pay back the market, power plants will not get built as depicted by the situation currently experience in the Northwest where power plant contracts have been canceled. Chairman Hines added to the picture by stating utilities in the Northwest are asking their Commissions to try to become vertically integrated utilities. Commissioner Rowe noted there is an element of risk, and traditional utilities are attempting to get at that risk through integrated resource plan process. On the default supply side, guidelines put in place pursuant to HB 509 and 247 are an attempt to address this.

Mr. Uda addressed Chairman Hines' concern about the ITPs being biased, but noted they might view other perspectives as being biased.

(Tape 1; Side B blank)

(Tape 2; Side A)

Mr. Uda felt asking what the perceived risk is in competing in a market where there is a utility that is able to rate base generation is a fair question. Mr. Uda would like to hear from all the parties who might be affected.

Chairman Hines agreed this was a fair point and stated the ITPs have had an opportunity to step up over the past few years but, for a variety of reasons, have not. Chairman Hines felt there is a need for generation fairly close to load to be developed in Montana within the next couple of years.

Commissioner Rowe requested that the last sentence of the recommendation include reference to the PSC. The Task Force agreed that would be appropriate.

3. Public Service Commission to Review Transfers of Utility Property.

Mr. Bushnell recalled the Task Force agreed the PSC should be granted explicit authority to review transfers and sales of property to provide regulated utility services. This recommendation was to pass this off to the Legislative Interim Committee on Energy and Telecommunications and work with interested parties to address the specifics and develop legislation taking into account the following considerations:

1. Transfer authority should be applicable only to the transfer or sale of property used to provide regulated utility services;
2. The threshold for PSC review of a transaction should be set at a reasonable level that permits regulated utilities to conduct business on a normal day-to-day basis absent PSC review;
3. The standard by which a transfer should be judged needs to be clear and acceptable to all parties;
4. Whether anti-trust considerations should be considered a standard for PSC review;
5. Whether equipment leases should be subject to transaction review; and
6. All types of regulated utilities should be considered in developing any legislation.

Task Force Discussion:

Mr. Power noted item six did not contain "Whether" at the beginning which would make this a solid recommendation. Mr. Uda recalled it was a decision of the Task Force. It was decided item six should be moved to the paragraph above and be included as part of the general recommendation.

Commissioner Rowe made the minor point that the only standard "acceptable" to the parties subject to review would be no standard at all. Commissioner Rowe thought it might be better to use "clear" rather than "clear and acceptable." In item four, Commissioner Rowe suggested the PSC should consider "effects on competition where relevant," since anti-trust brings up a large and complicated area of law. Commissioner Rowe stated under existing law, the PSC would not likely consider effects on competition in a sale involving MDU, a vertically integrated monopoly, or the sale of a water company, or a world telecom company. Commissioner Rowe felt biting off the whole issue of anti-trust laws would be more than what the Task Force had in mind.

Mr. Uda restated the question as being more what to do with the effects on the competitive market that a particular sale would have as opposed to whether it technically creates a concentration of market power in an inappropriate way under federal or state anti-trust laws. Mr. Uda was not certain the PSC currently has, or even wants, that authority.

Mr. Bushnell did not include Commissioner Rowe's suggestion because he had recalled the Task Force wanting to use reference to "anti-trust" rather than reference to "effects on competition."

Mr. Power thought if MDU proposed to sell all its generation to one company, given the experience with Montana Power, the PSC would want to take that into account. The Task Force agreed to make the change from "anti-trust" to "effects on competition." In addition, "and acceptable" will be stricken from item three.

Rep. Olson fell back to the prior discussion on advanced approval of utility-owned generation and felt everybody had to be at the table to discuss the issue. Rep. Olson felt "and acceptable" should remain. The Task Force agreed to leave that language in.

<u>Sufficiency of Consumer Protection Provisions in HB 509</u>

Chairman Hines stated the subcommittee had met and had discussed three issues: The first issue was the affirmation of customer choice for those customers wanting to exercise that choice. The second point was to ensure a clear understanding of the risks involved for those customers who want to exercise that choice. The third point is to ensure customers remaining on the default supply system are protected from any costs associated by those customers leaving the system.

Mr. Bushnell distributed the subcommittee's formal recommendations to the Task Force (Exhibit 2). The subcommittee's recommendations were:

1. Customer choice provisions should be reaffirmed;

2. Consumer protection for default supply should be reaffirmed;

3. No exceptions to consumer protection provisions;

4. Transparency of rules;

5. Customer obligations; and

6. Legislative solutions.

Mr. Bushnell added there is probably more detailed work to be done on this issue, and the Legislative Interim Committee on Energy and Telecommunications is probably a better forum to do the detailed work.

Chairman Hines noted research has indicated a potential gap in legislation would not sufficiently protect consumers in the case of an entity forming a municipality, and including the wires and poles with the condemnation. At that point, the PSC would have the authority to assess any exit fees or stranded cost assessments. The subcommittee felt the statute was sufficiently unclear to warrant addressing the issue to ensure any entity looking at that option would clearly understand the ramifications.

Mr. Uda thought the consumer protection provisions of HB 509 probably do apply to customer movement in and out of the default supply irrespective of where they are going, but agreed it is not 100 percent clear. The subcommittee felt the law should be clarified to make sure there is a transparent understanding of what the obligations are of both customers leaving and the corporate entity taking responsibility for those customers.

Commissioner Rowe stated his understanding was that they are neutral on the question of municipalization and the Montana League of Cities and Towns did not oppose this. Mr. Uda agreed and stated the subcommittee's understanding from speaking with Alec Hansen was that the Montana League of Cities and Towns did not have a problem with this.

Chairman Hines stated Mr. Hansen indicated he saw nothing wrong with the twin goals of not trying to modify the ability of municipalities to do such an action, while still protecting a remaining customer base. Mr. Hansen had understood the purpose was to prevent someone from gaming the system and using the default supply as a ceiling on the price their customers would have to pay. Mr. Hansen stated the Montana League of Cities and Towns would not oppose an attempt to make the law clear that municipalization does not change the consumer protection provisions of HB 509.

The Task Force agreed with the recommendations of the subcommittee.

Commissioner Rowe felt it was encouraging that the provisions of HB 509 were very robust and felt the sponsor did a good job. Commissioner Rowe stated there was also discussion about possible modifications to Section 8 of the NWE tariff and stated if anyone would like to pursue that, they should write a letter to the PSC with their particular recommendations.

Chairman Hines asked Rep. Olson, as Chairman of the Legislative Interim Committee on Energy and Telecommunications, for his thoughts on how the Task Force could assist Rep. Olson with discussions that will take place in his Committee due to recommendations made to the Governor by the Task Force. Rep. Olson asked Task Force members to take an active part in discussions that will occur in his Committee. Ownership of generation is one of the issues on his Committee's work plan, and the success of legislation last session was due to the participation of everyone concerned.

Department of Environmental Quality Report on Building Codes

Mr. Paul Cartwright, Senior Energy Analyst for the Department of Environmental Quality (DEQ) gave an update on developing additional building codes that would be cost-effective for the State of Montana. Mr. Cartwright summarized that Montana is behind the rest of the nation and should be working with the Department of Labor to get a new code adopted. The Code establishes a minimum level of efficiency for a building and is advantageous for both the property owner and the state as a whole. A cost-effective Code can also reduce the overall cost of owning a house and can reduce risk because a house that uses less energy is less effected by price spikes in energy. It also reduces the cost of energy to all customers because it lowers the demand. Mr. Cartwright explained all these arguments for cost-efficiency can also be applied to commercial buildings. The International Code Council prepares recommended code standards and practices and the recommendations are subject to public hearing and long debates. The current Energy Code is the 2000 International Energy Conservation Code and will be updated shortly to 2003. The Energy Code in Montana has been in existence for 25 years and was last changed in 1996 and covers both residential and commercial buildings. There are two paths, one prescriptive and one equivalent. The prescriptive path requires higher insulation in walls and allows a much less efficient window. The equivalent path has much more efficient windows. The exception in the Montana Code is on basement walls. Basement walls in unfinished basements do not have to be insulated, and neither does the floor above. This drops the efficiency of new houses. Oregon and Washington updated their energy codes in 2001. Mr. Cartwright felt Montana is seriously lagging behind. Mr. Cartwright cautioned Montana could not realistically be compared to Oregon and Washington because Montana has a much colder climate. Idaho has a comparable climate to Montana and is stricter on efficiency of windows in its codes. Mr. Cartwright presented data depicting recent increases for gas and electricity, as well as predicted increases for the future. Mr. Cartwright portrayed Montana as lagging behind federal standards set for commercial buildings. In speaking to enforcement, Mr. Cartwright stated the Department of Labor enforces commercial and large residential buildings. Residential buildings outside the code compliance areas are self-enforced by the builders. Mr. Cartwright testified a large number of builders are meeting the current code as amended.

Chairman Hines recalled a study done five or six years ago which showed a very high preponderance of non-code compliance and was confused about Mr. Cartwright's estimate of 70 to 80 percent compliance. Mr. Cartwright felt the discrepancy was due to a difference in the definition of "code compliance."

Mr. Cartwright pointed out the tax credit in Montana for energy efficiency above code was raised to $500 or 25 percent of the cost. Raising this credit will cause an increase in claims, and Mr. Cartwright was not convinced tax credits should be given to things people could and should be doing regardless.. Mr. Cartwright thought raising the bar could result in as much as a million dollars claimed in tax credits.

Labor and Industry adopts all the codes and has a Building Code Council made up of representatives of the building industry. Mr. Cartwright stated this council is responsible for updating codes, but Mr. Cartwright thought the Energy Codes may have to wait until the council receives direction from the Legislature. SJR 13 stated Legislative Council shall evaluate the State's current energy-efficient building policies and practices and investigate options for improving them. The Building Code Council is waiting for those recommendations, and those recommendations will not be taken up until spring.

Rep. Olson stated SJR 13 is in the Energy and Telecommunications Interim Committee, and he has tried to set up a working group, but has a limited budget. Rep. Olson stated the Interim Committee would address this issue.

Chairman Hines remembered in 1996 key issues were the number of years for payback of the total package, not just individual, and also the total amount of up-front additional incremental costs. Mr. Cartwright did not have the numbers requested and stated DEQ does not have thorough monitoring capability, but thought the range was $2,000 to $3,000 and does not include the basement insulation. Mr. Cartwright recalled the payback as being less than ten years taking into account the tax implications.

Upon question from Mr. Drummond, Mr. Cartwright stated DEQ has to tell the U.S. Department of Energy what it is up to and request a delay.

(Tape 2; Side B blank)

(Tape 3; Side A)

Mr. Uda wondered what the Task Force was supposed to do with these issues. Chairman Hines reminded him that the Task Force's reference point was what could be done in both the short-term and the long-term to protect consumers from rising energy prices. This is a tool that can provide long-term insulation from energy price increases and volatility. The first step down this path would be to determine whether Montana's Code was vis-a-vis the current cost-effectiveness. There are measures that can be implemented and put into a code that will be beneficial for a consumer in the long run both financially and by providing stability to their energy bills. Chairman Hines recanted some of the options available to the Task Force as recommending Energy Codes be updated and to direct the Department of Labor to either start the process or defer it to the Interim Committee to start its working group, or a combination of both of those recommendations.

Rep. Olson thought a recommendation from the Task Force would go a long way and be very beneficial. Rep. Olson felt the recommendation should be made to the Governor and the Interim Committee. Commissioner Rowe supported the suggestion and stated this would help low-income families in the long run. Most low-income families are not going to live in new houses, but it will benefit low-income families at some point in the future as homes become older.

Switching directions, Rep. Olson felt the Task Force could become the working group of the Interim Committee by getting the stakeholders at the table for comment and taking public testimony. Rep. Olson thought this would help the Interim Committee considerably. Chairman Hines agreed and stated updating the building codes would require a lot of public comment.

Chairman Hines questioned Mr. Cartwright about the applicability of dual fuel codes right now given the price increases seen with gas. Chairman Hines asked if a single code could be achieved or whether separate codes were still necessary. As an analytical matter, a dual fuel code is desirable, but as a practical matter it is not. Mr. Cartwright explained gas barely gets into the

ICC range and electricity is far above it. Electricity is still more than twice the cost of gas in terms of delivered heat. Because the Codes are controversial and there are a lot of small builders, getting a code that works and will be followed is important.

Mr. Drummond felt enforcement was an issue which should probably be addressed by the Interim Committee. Commissioner Rowe added there are things involved in learning how to build up to code such as training activities and working with builder's associations.

Chairman Hines requested Mr. Cartwright to prepare a one or two-page summary to be put on the website and to initiate the public comment focus. Mr. Bushnell will work with the Department of Labor to notify interested parties that the Task Force will be discussing this topic on November 21, 2003.

Mr. Power asked if the Power and Conservation Council evaluates cost-effective levels of insulation building practices for natural gas. Mr. Power recalled the vast majority of housing in Montana is not heated by electricity. Therefore, Mr. Power thought information is needed on what are cost-effective levels for building practices for gas-heated buildings in Montana. Mr. Cartwright responded the savings are not nearly as great for gas as on the electric side. Mr. Cartwright believed propane is eating up a lot of electric heat, and propane is a much more volatile fuel than natural gas or electricity. Mr. Power asked that discussion focus on the primary fuel used because that is where the greater level of controversy is likely to be.

Mr. Uda asked if there had been any analysis of resistence to implementing these measures depending on how much incrementally they are beyond the previous standards. It seemed to Mr. Uda if you are getting less voluntary compliance the higher you go beyond the prior standards, you may end up ultimately having a self-defeating goal. Mr. Cartwright felt there would be resistence and urged the Task Force to work closely with the Department of Labor and the Building Codes Advisory Committee. Education and consumer enforcement will be important factors.

Mr. Power inquired what the percentage of new housing was spec housing as opposed to working with an architect to design a house. Mr. Power's recollection is that when there is a spec house, there is some degree of market failure in terms of the likelihood the builder is taking into account life cycle costs associated with the operation of the house. Chairman Hines added there is a higher percentage of electric in spec houses because of the lower up-front cost. Mr. Power agreed that the person building the house is interested in keeping the up-front costs low and the pressure to invest in a cost-effective manner is not there.

Chairman Hines requested Mr. Cartwright to work with Mr. Bushnell and the Power Council to run a gas paradigm. Chairman Hines stated the more they can have a proposed code that provides a greater degree of energy efficiency without upsetting the applecart, the easier it will be to implement. Chairman Hines also requested numbers indicating the number of years until payback and total cost.

<u>Presentation on Ring-Fencing by Bryan Conway</u>

Mr. Bryan Conway from the Oregon Public Utility Commission (PUC) gave a presentation on ring-fencing (Exhibit 3). Mr. Conway's presentation included affiliated interest and ring-fencing, financing controls, transfer pricing policies, audit and code of conduct reviews, and potential for new techniques.

Mr. Conway explained the purpose is to isolate a utility from negative financial impacts created by affiliates to ensure a strong credit rating, prevent cross-subsidizing non-regulated utilities, and to ensure regulators have access to accurate information. The Oregon PUC defines affiliated interest as being a financial link, either up, down, or across a corporate chain, to a public utility with no less than a five percent ownership interest or a corporation with two or more officers or directors in common with the utility. Mr. Conway explained credit enhancements gained by ring-fencing and provided a list of Oregon's financing and affiliated interest statutes. Mr. Conway also provided a listing of the Oregon Administrative Rules and stated he would provide further information about these rules if the Task Force desired further information. Mr. Conway outlined the requirements for transactions with an affiliated interest both when the utility is the buyer and the seller. When a utility is selling goods and services and files its informational filing, the PUC can ask for further information. All contracts have to be fair and reasonable and not contrary to public interest. When a utility is selling to an affiliate, the price must higher than cost or market and any profit from the sale must be shown as a gain. Mr. Conway outlined ring-fencing tools used for PGE and PacifiCorp. The PUC placed a $200 million ceiling on loans that PacifiCorp could make to affiliates. Chairman Hines wondered how they came up with the $200 million figure. Mr. Conway was uncertain why that number was chosen for the ceiling. Commissioner Rowe reported NWE's total debt as being $2.2 million and the value of the company as being $1 billion. Chairman Hines asked whether the PSC had approved a loan. Commissioner Rowe explained the financing order was approved and allowed them to obligate the utility property for the non-utility applications. Commissioner Rowe depicted this as "painting the front porch in order to sell the house."

Mr. Conway continued with current ring-fencing provisions which include access to information. All books and records, including minutes, must be accessible locally. Additional steps are required to access minutes and an administrative law judge performs an in-camera process to determine relevancy of minutes.

The PUC is in the process of considering additional ring-fencing tools. These tools may include a required freeze on dividends upon a credit-rating downgrade or additional equity offering upon a certain event. The 48 percent level requires no dividends be sent to the parent company if a company is below that level, but does not say they cannot send dividends until 48 percent and then take write offs that would draw them below 48 percent. In addition, the PUC is considering prescribing conditions in the event of default or other credit-diminishing event. The PUC is also considering broadening the definition of "dividends."

Mr. Drummond recalled a situation where Portland General collected from the ratepayers money to be used to pay Oregon state taxes. The money paid by the ratepayers was absorbed by Enron and the tax liability disappeared. In essence, ratepayers paid the money, the State of Oregon received nothing, and the money was absorbed by the parent. Mr. Conway replied that when they were negotiating with Enron to purchase PGE, he did not believe people were thinking about Enron losing money. The thought at that time was Enron was a high-flying company and would get bored with this utility, suck it dry, and move on. Therefore, the PUC put in place ring-fencing. Mr. Conway explained the situation as the company either agreed to pay what they would have to pay on a stand-alone basis, and let the company deal with whether or not they owed more or less, depending on earnings and write-offs, or you say take your chances.

Mr. Drummond asked why the liability of a PGE subsidiary would go up because the parent made more money. He thought the money would come from the other subsidiaries of the parent that are making more money. Mr. Conway's understanding was that if taxes are allocated, there would not be a cap on what a subsidiary would have paid as an isolated utility. Mr. Power commented the allocation is not necessarily based on property or profits, but based on different levels of business activity. Therefore, you could inherit tax liability in excess of what you would have originally been responsible for.

Chairman Hines asked if they could track the dollars that are collected in rates for specific purposes and ensure that those purposes are being met. For example, if "X" amount of dollars are collected for maintenance on the system, is there a way to ensure those dollars are actually used for their intended purpose rather than being funneled up to the parent. Mr. Conway replied not explicitly, but there are penalties assessed for violations. Mr. Conway stated it is through quality-service measures that they can track the use of money.

Commissioner Rowe asked if the Oregon PUC had direct finding authority across all utilities. Mr. Conway stated there is something coming through the process that would give direct finding authority to the PUC with an appeal process in the courts.

Mr. Uda asked if current Oregon ring-fencing statutes and regulations give the PUC the ability to ring-fence a utility where presumably the profitable part of the company was a division rather than an affiliate of the parent corporation. Mr. Uda spoke of NWE's situation where the parent was in financial distress but a division of the company, rather than a separate affiliate, was profitable.

(Tape 3; Side B)

Mr. Conway responded their ring-fencing authority is over the regulated utility. Therefore, they did not actually have authority over Enron or Scottish Power. Commissioner Rowe assisted by saying if Enron came in for approval to purchase PGE and said it was going to operate it as part of Enron, would the Oregon PUC have the authority to put in place as a condition of the sale the requirement that they operate it as a separate ring-fenced affiliate. Mr. Conway replied yes because of ORS 757.511 which says if someone is going to have substantial influence over a regulated utility, it has to be approved by the PUC.

Mr. Uda wondered if the PUC had not specifically said that at the time of the sale, would they be able to impose restrictions after the fact. Mr. Conway did not think so, and Mr. Power agreed you cannot ring-fence something that is not a separate corporate entity. Mr. Conway clarified that the PUC would not have any authority over the amount of dividends paid up to Enron if they had not done that up front. They would have authority under the affiliate interest transactions, and there are two paths to get money up to the parent, either through dividends or contracts.

Mr. Conway discussed the use of teams to conduct comprehensive audits. In addition, he stated the deregulation bill in Oregon has placed focus on making sure the utility is not subsidizing its affiliates to go out in the market to win the ITP war.

Mr. Conway concluded there are several tools being used successfully to shield regulated utilities from undue harm caused by parent companies or affiliates. It will be determined in the future whether these tools were successful in limiting negative influences and protecting the utility and ratepayers.

Commissioner Rowe wanted to know how many people were on the auditing staff and whether they were auditing against a gap or against affiliated interest standards. Commissioner Rowe also wanted to know if they were auditing as part of the rate case or whether they were doing audits independently or in advance of a case being filed. Mr. Conway explained they audit in advance of rate cases and audit against gap and their affiliated interest such, as whether there is something out there that looks like it should not be paid for by customers. Currently, they have one full-time auditor, but there are six to eight auditors available as needed.

Presentation on Ring-Fencing–Richard Hunter, Hugh Welton, and Sharon Bonelli

Richard Hunter, Hugh Welton, and Sharon Bonelli from Fitch Ratings Global Power Group gave a telecom presentation on ring-fencing. Mr. Hunter began by stating it is very important to understand what is to be achieved by ring-fencing, and it is very difficult to achieve complete insulation of one subsidiary company from its parents or affiliates by ring-fencing. You can only achieve complete insulation when you have a structured or secure vehicle. Mr. Hunter stated it is important to recognize the limit of what can be achieved by ring-fencing. Ring-fencing does have its merits and various measures put in place can prevent bankruptcy, if properly applied, of subsidiaries even if the parent does go to bankruptcy. Mr. Hunter spoke of Portland General and a combination of events including exposure to common healthcare and pension obligations, common tax obligations, and the lack of access of Portland General to the unsecured capital markets that lead to problems. All these things resulted in the downgrading of Portland General. Mr. Hunter also spoke of Allegheny Energy Supply and the problems it experienced with its trading business that pulled down the ratings of its affiliates. The utilities ended up being rated higher partly because of ring-fencing measures in place and because of the structural separation between the utility and the troubled entities. One method of ring-fencing structurally is to have a parent holding company. Dividend distribution restrictions for cash can be useful in ring-fencing. Prohibitions on intercompany transactions that have not been pre-approved can also help. Money pools should be separated between the regulated and unregulated businesses or limits should be put in place to prevent more than a significant amount of money leaving. There are prohibitions in most states on intercompany laws between the regulated utilities and its affiliates. In many cases, specific prohibitions do not include money pools. Mr. Hunter felt it would be beneficial for regulators to look at this. Mr. Hunter stated as a rating agency, they are indifferent to a company's rating. Strong ring-fencing or weak ring-fencing is determined relative to what the people who put the ring-fence in place expected. Mr. Hunter summarized that ring-fencing for existing industrial entities and utility entities can help to increase the distance between a parent and stronger subsidiary but cannot completely break that linkage.

Sharon Bonelli added that ring-fencing can come from regulators, financial counterparts, or from the company's own policies. Ms. Bonelli identified the company's policies as being the weakest source since policies can be easily changed. Effective ring-fencing would be one done collectively from all these sources.

Chairman Hines inquired if there were downsides to ring-fencing such as less efficiency among management if their ability to co-mingle efforts is restricted or access to capital. Mr. Hunter responded separate management teams will result in additional costs. The act of compliance can also increase costs. Mr. Hunter felt it was difficult to argue the cost of capital would be increased for a regulated utility from ring-fencing. In looking at cash management qualities of utilities, often times the parent company will lower the cost of capital overall for all subsidiaries by having a common money pool. Mr. Hunter found it was extraordinarily rare to find stand-alone low-rated regulated utilities surrounded only by high-rated regulated utilities surrounded only by higher rated regulated businesses and a higher rated parent. This was the only scenario where Mr. Hunter thought there might be a cost of capital deficit as a result of ring-fencing.

Commissioner Rowe was curious as to whether Mr. Hunter's view of ring-fencing was the same now as it was ten or fifteen years ago when companies were encouraged to diversify. Mr. Hunter stated ten or fifteen years ago there was nothing that would indicate utilities were benefitting from diversification, and utilities do not have a good track record of diversifying wisely.

Commissioner Rowe asked if there would be a temptation to take down an internal fence in a weak company at exactly the moment that a rating agency or analyst would be most concerned to see the fence preserved. Mr. Hunter found it interesting that last year there were a number of utilities with particularly strong internal ring-fencing policies in place, but the companies chose not to pillage the regulated businesses and maintained the value of those regulated businesses. An internal ring-fencing policy is very rarely documented in the way an external ring-fencing policy would be documented. Mr. Hunter pointed out that MDU has a significant mix of regulated and unregulated business, and the unregulated businesses are not a major drag on the rating of the company. Mr. Welton added the structure of MDU has financed their non-utility businesses through almost a separate company, and they are committed not to leverage up MDU Resources, Inc., to support their non-utility businesses. The only money that has come down from MDU Resources, Inc., has been when the parent company issues equity.

Commissioner Rowe asked Mr. Welton to describe MDU's efforts at internal ring-fencing. Mr. Welton explained it is the way MDU separated the financing of its businesses by setting up an intermediate holding company and are not issuing debt at the parent company level. Mr. Hunter added it is a gray zone between what they call ring-fencing and treasury policy. There is a fine line between ring-fencing internally and how the company approaches other areas of its strategy, and external ring-fencing is much more easily identified.

Commissioner Rowe wondered if the MDU example argued in favor of company-by-company ring-fencing policies possibly as a compliment to more general affiliate interest policies. Mr. Hunter thought it might in some cases and could not imagine that anything set up in the way of generic ring-fencing would prejudice MDU.

Commissioner Rowe then asked Mr. Hunter whether, even with the integrated division structure that MDU has, some of the ring-fencing strategies endorsed by Fitch Ratings would be overly burdensome. Mr. Hunter replied it would depend on the ring-fencing measures put in place.

Chairman Hines asked for a sense of how often ring-fencing is employed by other states throughout the country. Ms. Bonelli replied it was a wide variance and added just because the states have the authority, does not mean they necessarily use it. Ms. Bonelli thought it was a binary decision by the utility commission which views a utility as either being in trouble or not being in trouble, and when a utility is deemed to be in trouble, the issue of ring-fencing will arise. Mr. Hunter noted ring-fencing requires a courageous call by the regulating authority, and suggested having a quantitative set of objectives for regulated utilities. Statistically, the number of defaults in the power and gas industry over the last fifteen years is twelve, and eight of them have occurred in the last three years.

(Tape 4; Side A)

Commissioner Rowe remembered that historically there had been a debate over the standard by which transactions should be reviewed. He wondered if a standard was helpful in making determinations more objective and to the extent that it is, what the preferable standard would be Mr. Hunter's opinion. Mr. Hunter stated it is very difficult to come up with a single standard so he could not recommend one standard over another. Mr. Hunter admitted this answer was vague, but stated there is not a precise answer.

Commissioner Rowe asked if there was a list of best practices or key standards available. Mr. Hunter directed Commissioner Rowe to the website www.fitchratings.com. and specifically to the cash management document.

Presentation on Ring-Fencing by Bryan Conway (cont'd.)

Mr. Power remembered Mr. Conway stating there was no evidence at this point as to whether ring-fencing efforts had been a benefit to customers. Mr. Power also remembered that in one of the Fitch or Standard and Poore articles the gap between PGE and Enron's rate is the largest gap of any utilities and their parent companies. Given that the parent is in bankruptcy and the utility seems to be fairing well, Mr. Power felt the gap would be indicative that ring-fencing has worked. Mr. Conway felt firmly that ring-fencing helped the company and has provided benefits. However, he felt the true test for ring-fencing will be what happens in the future. Mr. Conway did feel the evidence of the gap being so wide between Enron and PGE is attributable to a variety of things including ring-fencing, affiliated interest, and supported regulations.

Chairman Hines asked about ring-fencing applying to telecoms in the State of Oregon, and Mr. Conway explained telecoms operate on their own, and statutory authority over mergers and acquisitions does not apply to telecommunications and only applies to gas and electric companies.

Chairman Hines asked how Oregon would rate its legislation versus legislation in other states and where else would Mr. Conway recommend the Task Force look in developing its own proposed legislation. Mr. Conway has confessed he had not reviewed legislation in other states, but felt Washington was pro-consumer in its rules and regulations.

Mr. Bushnell will put an electronic copy of Mr. Conway's slide show on the PSC website, as well as copies of the statutes Mr. Conway referenced.

Development of Future Work Plan and Meeting Dates

Chairman Hines opened up the issue of ring-fencing for discussion by the Task Force. Representative Olson stated ring-fencing is part of the work plan for the Interim Committee. Mr. Uda asked if the Task Force wanted to make a general recommendation that the Interim Committee look at the ring-fencing issue, but did not feel that would be a very helpful recommendation. Mr. Uda volunteered to work on a subcommittee to address ring-fencing and develop standards and alternative ideas used in other states.

Commissioner Rowe felt ring-fencing is one of the two most important things the Task Force could recommend and felt a recommendation on ring-fencing from the Task Force would be helpful. Commissioner Rowe felt some basic ring-fencing could have helped the situation in Montana. Commissioner Rowe warned the issue would be controversial and suggesting involving Bob Nelson from Consumer Council, as well as the Interim Committee. Commissioner Rowe suggested looking at the statutory authority already in Montana law, as well as looking at what other states have done, and then question the general regulatory policy and possibly amend existing reporting rules, and then take a look at general company policies.

Chairman Hines assigned Mike Uda, John Bushnell, Tom Power, Commissioner Rowe, and Bill Drummond to work on a subcommittee. Chairman Hines suggested the Interim Committee put together some of the ground work and rationale and areas of concern to give the newly formed subcommittee a jump start. Upon review of the work plan, Rep. Olson did not see anything indicating the Interim Committee was going to address this issue. However, Rep. Olson thought ring-fencing could fall under other issues the Interim Committee is going to address.

Qualifying Facility Contracts

Chairman Hines stated there is a rumor that these contracts may be renegotiated through the bankruptcy proceedings, and the State has an interest since it is an owner of one of the qualifying facilities. If the contracts are disaffirmed, Chairman Hines would like to know what the implications will be for the competitive transmission charges currently in our rates. Mr. Uda restated the question as whether they could simultaneously reject the contracts and still collect CQF. Chairman Hines asked for Task Force discussion on this issue and suggestions on avenues that can be taken to prevent this outcome since it will likely not have a positive outcome for ratepayers.

Mr. Bushnell provided a history stating there was a requirement in 390 that determination of stranded costs be a one-time net-verifiable amount as determined by the Montana Supreme Court. In the formation of a stipulation, there had to be a one-time determination of stranded costs. When it came to the CTCs for QFs, a deal was struck that looked at the production of the qualifying facilities over their remaining lives, and one part of the agreement was to use a stream of market prices to value the generation over their remaining lives at market. Montana Power was to provide that amount of power at those prices and quantities, delivered with the same type of delivery schedule that the QFs historically provided over the remaining lives of the QFs contracts. In other words, deliver an equivalent amount of power in the same shape at the market prices used to determine stranded costs to the QFs. The remaining out-of-market costs, which were calculated using the same production values, were reduced by approximately $60 million which was to benefit all customers. A CTC was created and the first two years of the CTC charge was discounted in order to roll it into rates. Chairman Hines stated the total amount of the CTC and the net present value of it is $244 million after the $60 million reduction. The idea was that this provided the net verifiable one-time determination of stranded costs and allowed NWE to separate those contracts, so they are no longer tied to the power being delivered. At that time NWE could have taken that future revenue stream and mitigated those QF contracts. The issue is that it was assumed there would be a cost of doing that. If those contracts are simply rejected during the bankruptcy proceedings, this will become a costless venture, and none of the stipulating parties anticipated it would be costless for NWE to go out and mitigate those contracts without incurring substantial costs. In fact, it was anticipated the $244 million, net present value of the CTCs, would mitigate those costs. Chairman Hines stated the outcome as being $244 million would be collected above market costs over the life of the qualifying facilities at the expense of ratepayers. Commissioner Rowe felt the issue could be addressed in the bankruptcy court or in state court or, initially, before the PSC.

Mr. Drummond thought there would be strong incentive for the judge and creditors' committee to try to eliminate these contracts while keeping a stream of revenue coming. Therefore, the question is how to remove the CTC from rates or reduce the company's cost of capital by what would ultimately result in an equivalent amount in a future rate case. Chairman Hines had one more concern that these are bonded investments and revenue streams are used in part to pay off the bonds. This will put the state in line if the contracts are rejected.

Mr. Uda hypothesized the state is also concerned because some of the revenue stream is also used for the state's dam refurbishment program. Mr. Uda thought it is unlikely the QF contracts would be rejected and views that as less of a concern than if the contracts are renegotiated, which would then require adjusting the CTCs or determining whether the CTCs could be adjusted at all under current law.

Mr. Power recalled the risks to various parties, utility versus customers, was partly at issue in the debate between the PSC and Montana Power, which was settled by the Montana Supreme Court. If the primary concern is for the customer, a person needs to look at the equity or the distribution of risk all the way around. Mr. Power feels the issue may not be all that clear cut.

Chairman Hines agreed there were a variety of risks for both the utility and customers when the stipulation was negotiated. Chairman Hines' impression was that this particular potential outcome was never envisioned and was beyond the parameters of what was expected. Mr. Uda remembered the QFs did mention bankruptcy when the stipulation was being considered because of the promise of NWE to write down the $60 million. The QFs had concerns about their affiliate performance and thought NWE may not have the financial wherewithal to write down the $60 million and may drive them closer to insolvency. Mr. Uda recalled it was a concern of the PSC as well. Mr. Uda remembered the choice before the PSC as being Montana Power, who wanted out of the utility business, or NWE which was experiencing financial difficulties, but at least wanted to do the job. Mr. Uda did not remember there being any obvious alternatives to these two choices. Commissioner Rowe recalled one of the PSC's concerns as being the ability of NWE to take on the obligations associated with the settlement. It seemed to Commissioner Rowe that there are analogous situations in other major bankruptcies where various pre-commitments are sorted out by bankruptcy courts.

Chairman Hines felt the issue needed to be explored further and asked the same subcommittee to review this issue as well. Commissioner Rowe stated at some point, he would probably not participate in addressing this issue.

Mr. Power was concerned about what the Task Force could do and who they could make a recommendation to on this particular issue. If the PSC were to lower the CTC during bankruptcy, it will likely be overruled by the bankruptcy court. Mr. Power thought the subcommittee might address where they would go with any recommendation it might have. Chairman Hines stated the path would not be simple, but there would also be post-bankruptcy decisions.

Weatherization of Mobile Homes

Mr. Power stated he would like to revisit the issue of weatherizing mobile homes as a long-term solution. Mr. Power remembered mobile homes being a huge user of energy and the inhabitants of those mobile homes being low-income. Mr. Power continued saying weatherizing these mobile homes was simply pouring money down a bottomless pit. Mr. Power remembered Tom Eckman suggesting it would be cost-effective to buy those mobile homes and either destroy them or perform extensive rehabilitation before putting them back on the market. Mr. Power stated there are regulatory blocks and funding problems which keep the HRDCs from using weatherization dollars effectively. Mr. Power stated the amount of mobiles in low-income housing is large and growing, and the amount of money being lost in trying to provide a long-term solution is substantial. Mr. Power would like to hear some recommendations on how weatherization dollars can be used more effectively in the long-term.

(Tape 4; Side B)

Mr. Swysgood wondered what would happen if you bought mobiles and could not rehabilitate them and put them back on the market. Mr. Power remembered the suggestion as being you either rehabilitate them or take it off the market and replace it with something that is energy efficient. The idea was not to reduce the stock of low-income housing but to effectively improve the energy efficiency of low-income housing stock. Mr. Bushnell compared it to the refrigerator replacement program. In terms of low-income housing, the mobile would be replaced with a comparable mobile of the same size and energy savings would be applied toward the purchase of the new home. Mr. Power would like to hear the pros and cons and feels it is an interesting proposal. Mr. Drummond agreed stating he was shocked to hear how low-income weatherization money is being spent.

Chairman Hines summarized the Task Force would like to hear a proposal in greater detail and would then consider making a recommendation on using some of the low-income dollars available from federal funds. Mr. Power stated it could be that there would need to be a change in the law or regulations or that more funding is needed for the match. Mr. Power is not proposing finding more money, but rather using existing money more effectively to provide permanent solutions.

Mr. Swysgood stated the bottom line will be money. Mr. Swysgood reminded the Task Force that weatherizing low-income housing is also a problem because of the presence of asbestos. Mr. Uda would like to hear alternatives since it is such a problem and would like to discuss the issue further.

Chairman Hines suggested another subcommittee be formed. Mr. Power, Commissioner Rowe, and Mr. Uda will form the subcommittee.

Commissioner Rowe will have Dr. Janice Beecher, the Institute of Public Utilities at Michigan State University, will participate in the meeting on November 21. Dr. Beecher has been doing research on regulatory agency organization and structure.

Chairman Hines stated the tentative agenda for November 21 will be a report from the subcommittee on ring-fencing, a report on PSC structure, a presentation from Janice Beecher, and potential additional funding for low-income in bill assistance and the issue of building structure, building codes, and advanced approval recommendations, and CTC discussion.

Mr. Swysgood suggested making a recommendation to the Governor that if there are any federal funds available for programs, strong consideration be given to helping with low-income assistance. Mr. Swysgood would like to see that recommendation be made to the Governor immediately.

IT WAS MOVED, SECONDED, AND CARRIED that the Task Force recommend that if any federal funds become available, they be used for low-income fuel assistance.

Mr. Beaudry added he would like to receive a report on the status of NWE's bankruptcy at the next meeting since winter will be well underway by that time.

Rep. Olson stated the Interim Committee will also meet before the next Task Force meeting, and he can provide an update from that meeting.

There being no further business to come before the Task Force, the meeting was adjourned at 2:35 p.m.

APPROVED AS TO FORM AND CONTENT:

By:____
John Hines, Chairman

TRANSCRIPTION CERTIFICATION

I, Cynthia A. Peterson, residing in Helena, Montana, do hereby certify that the foregoing pages constitute a true and accurate transcription, to the best of my ability, of audio cassette Nos. 1-4 of the October 24, 2003, meeting of the Governor's Consumer Energy Protection Task Force.

Cynthia A. Peterson

Cynthia A. Peterson, PLS